

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**NEW CENTURY BANK d/b/a
CUSTOMERS BANK**

Plaintiff,

v.

OPEN SOLUTIONS INC.

Defendant.

Civil Action No. 2:10-cv-06537-HB

NOTICE OF APPEAL

Notice is hereby given that Defendant/Counterclaim Plaintiff Open Solutions, Inc. (“Open Solutions”) appeals to the United States Court of Appeals for the Third Circuit from the following orders and decisions of the District Court:

1. The order dated August 8, 2011, granting the Federal Deposit Insurance Corporation’s motion to dismiss Open Solutions’ counterclaim for lack of subject matter jurisdiction, which appears as document number 88.
2. The order dated May 3, 2011, granting the Federal Deposit Insurance Corporation’s motion to intervene, which appears as document number 73.
3. The decision to grant Plaintiff New Century Bank’s motion to exclude evidence regarding damages for breach of the 2008 Agreement, which motion New Century Bank filed on February 18, 2011, as document number 46. Open Solutions filed an opposition to the motion on February 22, 2011, as document number 50. The District Court did not enter an order regarding its decision on Plaintiff’s motion, but the ruling is referenced at footnote 3 on page 7 of the August 8, 2011 memorandum opinion granting the Federal Deposit Insurance Corporation’s

motion to dismiss Open Solutions' counterclaim for lack of subject matter jurisdiction. The memorandum appears as document number 87.

4. The decision, premised on the exclusion of evidence regarding breach of the 2008 Agreement, that Open Solutions did not prove that the 2008 Agreement had been breached. The decision is stated in the Findings of Fact and Conclusions of Law entered on the docket on March 7, 2011 as document number 53, and also in the Judgment entered on the same date as document number 55.

5. All other orders or rulings adverse to Open Solutions that are incorporated or encompassed within the aforementioned orders of March 7, 2011 and August 8, 2011, or the final judgment entered by this Court or embodied by its orders.

Dated: September 2, 2011

/s/ Eric E. Reed

Ronald J. Shaffer, Esquire
Scott L. Vernick, Esquire
Eric E. Reed, Esquire
Fox Rothschild LLP
2000 Market Street, Twentieth Floor
Philadelphia, Pennsylvania 19103
(215) 299-2000
(215) 299-2150 (facsimile)

Gregory G. Garre, Esquire
Latham & Watkins LLP
555 Eleventh Street, NW, Suite 1000
Washington DC 20004-1304
(202) 637-2200
(202) 637-2201 (facsimile)

*Attorneys for Defendant and Counterclaim
Plaintiff Open Solutions Inc.*

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Notice of Appeal was filed with the Court using the ECF system, which will provide notice and a copy to the following:

Nicholas Deenis
Andrew K. Stutzman
William T. Mandia
STRADLEY RONON STEVENS & YOUNG, LLP
2600 One Commerce Square
Philadelphia, PA 19103

Thomas M. Clark
FDIC
350 Fifth Avenue, Suite 1200
New York, NY 10118-0110

Dated: September 2, 2011

/s/ Eric E. Reed
